

REMARKS

In the Office Action of January 4, 2005, the Examiner withdrew the present application from issue. Claims 15 and 28 were objected to for being dependent on non-allowable base claims, but were said to be allowable if written as independent claims. With the present amendment claim 15 is rewritten as an independent claim. However, claim 28 is not rewritten as an independent claim as it is directed to the method of treating a *Treponema* infection, which is not taught in the prior art.

Claim 18 stands rejected under 35 U.S.C. 112, second paragraph, for being indefinite. The Examiner objected to the use of the term "the composition," as it does not have antecedent basis. With the present amendment to claim 18, it is believed this rejection is rendered moot. Claims 14, 16, 17 and 27 stand rejected under 35 U.S.C. 103(a) for being obvious over Nitsas. Nitsas is said to teach an antimicrobial pharmaceutical composition comprising essential oils containing thymol and carvacrol in a weight ratio of carvacrol to thymol of 10:1, which is included in the range recited in claim 1. The reference is also relied on for teaching the antimicrobial pharmaceutical composition is used to treat diseases caused by pathogenic microorganisms of the abdominal tract. The Examiner noted that Applicant's remarks in the prior response that the prior art did not teach or suggest treating *Treponema* was not found persuasive for the reason that the limitation of being for treatment of *Treponema* did not affect or alter the components of the composition.

Rejection of claims 14, 16, 17 and 27 over Nitsas is respectfully traversed.

Claim 14 is now amended to recite the ratio of carvacrol and thymol being from 1:5 up to 10:1. Nitsas teaches effective antimicrobial activity with compositions in which the ratio of

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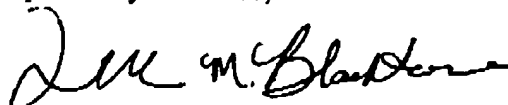
carvacrol to thymol is relatively high. It recites that the that the high ratios "provide surprising antimicrobial properties, when compared to the corresponding properties of essential oils having a ratio lower than 10:1 and of isolated thymol and carvacrol." (column 2, lines 49-52) They go on to recite (column 2, lines 64-62) "well balanced overall results were obtained by essential oils having a ratio of carvacrol to thymol in a range of 30:1 to 150:1. The best antimicrobial activities have been observed in the range of 40:1 to 110:1." Accordingly, the teachings of this reference suggest using high ratios and certainly not ratios in the range of 1:5 up 10:1 for any effective antibacterial activity.

In addition to the above, there is no suggestion in this reference, that, specifically, *Treponema* infections are effectively treated using such compositions, in any ratios. It is discussed (column 2, paragraph beginning line 19) that ratios of carvacrol:thymol, for example, lower than 5:1 show some antimicrobial activity on certain microorganisms but have mediocre activities on others. It is discussed that low ratios resulted in reduced activities on the same microorganisms. Thus, there is nothing in this reference to suggest a reasonable expectation of success for treating a particular microorganism that is not addressed in this reference. Moreover, it is generally taught that very high ratios are required. Accordingly, it is believed that the reference provides no suggestion that would lead the ordinary practitioner to believe that *Treponema* infections could be treated with these compositions but does suggest that ratios of carvacrol to thymol of less than 10:1 would not be effective.

In view of the above, with the present amendments, it is believed claims 14-18, 27 and 28 are in condition for allowance. Favorable action is solicited. Should the Examiner believe that a conference would be helpful in advancing the prosecution of this application, he is invited to

telephone Applicant's attorney at the number below.

Respectfully submitted,



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